

In the United States Court of Federal Claims

No. 19-4C

(E-Filed: January 16, 2019)

JUSTIN TAROVISKY, et al.)
)
Plaintiffs,)
)
v.)
)
THE UNITED STATES,)
)
Defendant.)
)

ORDER

Three motions are currently pending before the court in this matter: (1) plaintiffs' motion for leave to file a second amended complaint, ECF No. 8, filed January 14, 2019; (2) a motion titled "Plaintiffs' Motion to Conditionally Certify Collective Action, Approve Language of Proposed Notice and Consent Forms, Direct Issuance of Notice Primarily via Email, Permit Electronic Signatures on Consent Forms, and Permit Plaintiffs to File Consent Forms on CD-ROMs or USB Device," ECF No. 9, filed January 14, 2019; and, (3) defendant's motion to stay all proceedings in this case due to the lapse of appropriations, ECF No. 10, filed January 15, 2019.

In its motion to stay, defendant states that absent the required appropriations, "Department of Justice attorneys are prohibited from working, even on a voluntary basis, except in very limited circumstance, including 'emergencies involving the safety of human life or the protection of property.'" *Id.* at 1 (quoting 31 U.S.C. § 1342). Based on the lapse in appropriations to the Department of Justice as of December 21, 2018, the government requests "a stay of this case until Congress has restored appropriations to the Department." *Id.* The government further requests that "all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations." *Id.* Defendant also reports that plaintiffs oppose the motion.

This case involves claims for back pay allegedly due to federal workers as a result of the same lapse of appropriations that prevents defendant from participating in this case. As underscored by plaintiffs' opposition to the requested stay, the court appreciates the ironic circumstance that the very subject of this case also triggers the parties' inability

to proceed with the litigation. That said, neither the court nor the attorneys at the Department of Justice has the authority to change the present circumstances. As such, the court **GRANTS** defendant's motion to stay. The clerk's office is directed to **STAY** this matter until further order of the court.

Additionally, the court takes this opportunity to inform plaintiffs that until the court rules on the motion to conditionally certify this case as a collective action, the additional relief sought in its motion, ECF No. 9, is premature. For purpose of docket clarity, the clerk's office is directed to **STRIKE** plaintiffs' motion to certify class, **ECF No. 9**. Plaintiffs shall file their corrected motion to conditionally certify this case as a collective action once the stay has been lifted in this matter. Plaintiffs shall have the opportunity to file their additional requests set forth prematurely in their motion to certify once the court rules on its corrected motion for class certification.

Immediately upon restoration of appropriations to the Department of Justice, the parties shall **CONFER** and, as soon as practicable thereafter, shall **FILE** a **joint status report**. The status report shall propose agreed-upon filing deadlines for plaintiff's motion to certify this case as a collective action and for defendant's responses to plaintiff's motion for leave and motion to certify, along with any other modifications of proceedings in this matter.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
PATRICIA E. CAMPBELL-SMITH
Judge